

FILED

FEB 18 2020

Clerk, U.S. District Court
Texas Eastern

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

UNITED STATES OF AMERICA

v.

PETER XIE (01)

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§
§
§

NO. 4:20-CR-69
Judge Jordan

INFORMATION

THE UNITED STATES ATTORNEY CHARGES:

Background

At all times material to this Information:

1. The Lacey Act, among other things, made it unlawful for a person to import, export, transport, sell, receive, acquire, or purchase any wildlife, including elephant ivory that is or has been, possessed, transported, or sold in violation of any law, treaty, or regulation of the United States. 16 U.S.C. § 3372 (a)(1).

2. The Lacey Act also makes it unlawful to submit a false label for, or any false identification of, any wildlife which is intended to be transported in foreign commerce. 16 U.S.C. § 3372 (d)(2).

3. In order to protect species against over-exploitation, the United States became a signatory to an international treaty known as the Convention on International Trade in Endangered Species of Wild Fauna and Flora (hereinafter "CITES"). Appendix 1 of CITES includes species which are threatened with extinction and for which trade

must be subject to particularly strict regulation and for which no trade is allowed for commercial purposes. CITES, ART. II, § 1. Appendix II of CITES includes wildlife species which although not necessarily threatened with extinction now, may become so unless trade in specimens of such species is strictly regulated. CITES, Art. II, § 2(a).

4. The United States Fish and Wildlife Service (“USFWS”), Department of the Interior, is designated by Congress pursuant to the Endangered Species Act (ESA), Title 16, United States Code, Section 1537(a), as the CITES enforcement authority within the United States. The Department of the Interior publishes regulations to implement CITES in 50 C.F.R. Part 23. A list of all species protected by CITES and the ESA implementation program is maintained pursuant to the Convention by the CITES Secretariat. 50 C.F.R. §§ 23.7 and 23.91.

5. The provisions of CITES are implemented through the ESA, which states in relevant part, “It is unlawful for any person ... to engage in any trade in any specimens [of wildlife] contrary to the provisions of . . . [CITES] or to possess any specimens [of wildlife] traded contrary to the provisions of . . . [CITES].” “Trade” means, among other things, “to import.” CITES Art. 1(c). “Specimen” means: “any animal . . . whether alive or dead” CITES, Art. I(b).

6. The specimens of wildlife described in Count Two of this indictment, are variously protected under Appendix I of CITES, 50 C.F.R. §§ 23.7 and 23.91; <http://www.cites.org/eng/app/appendices.php>. Before exporting a specimen of any animal protected under Appendix I of CITES from the United States (U.S), a valid U.S

export permit and a foreign CITES import must be obtained. CITES, Art. IV, §§ 1, 2, and 4; 50 C.F.R. Subpart B.

7. No individual or corporation, including the defendant, **Peter Xie**, presented to the USFWS any of the required CITES documents for the export of the wildlife items listed in Count Two of this information.

Count One

Violation: 16 U.S.C. § 3372(d)(2)
(Negligent Attempt to Transport
Wildlife with a False Label)

On or about August 06, 2018, in the Eastern District of Texas and elsewhere, **Peter Xie**, defendant, did knowingly attempt to transport wildlife, to-wit: elephant ivory (Elephantidae), in foreign commerce, to-wit: to addresses within the Republic of China, in the form of two (2) separate packages, each containing one (1) elephant ivory (Elephantidae) snuff bottle, and did knowingly make and submit, a false record and false identification of wildlife, to-wit: two (2) U.S. Postal Service Forms 2976 (Customs Declaration shipping label), each representing one of the two elephant ivory snuff bottles, stating they were shipping from a fraudulent individual and address and representing them respectively as a “glass snuff bottle” and a “snuff bottle,” when, in the exercise of due care, the defendant should have known that transporting said wildlife in foreign commerce, with said false record and identification, would have violated the laws of the United States.

In violation of 16 U.S.C. §§ 3372(d)(2) and 3373(d)(3)(B).

Count Two

Violation: 16 U.S.C. §§ 1538(c)(1) and
1540(b)(1) (Attempted Trade in
Violation of Endangered Species Act)

On or about August 06, 2018, in the Eastern District of Texas and elsewhere, **Peter Xie**, defendant, did knowingly attempt to engage in trade in specimens of wildlife contrary to the provisions of the Convention of International Trade in Endangered Species of Wild Fauna and Flora, (hereinafter referred to as “CITES”), to wit: two (2) separate packages each containing one (1) elephant ivory (Elephantidae) snuff bottle, said elephant ivory being listed in Appendix I to CITES, and both packages were intended for export from the United States, to addresses within the Republic of China, without valid documentation as required by CITES and Title 50 CFR Section 23.12(a).

In violation of 16 U.S.C. §§ 1538(c)(1) and 1540(b)(1).

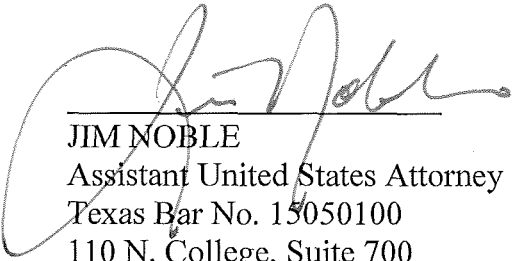
NOTICE OF INTENTION TO SEEK CRIMINAL FORFEITURE
Pursuant to 16 U.S.C. § 3374 and 28 U.S.C. § 2461

As a result of committing the offenses alleged in this information, the defendant shall forfeit to the United States of America pursuant to 16 U.S.C. § 3374 and 28 U.S.C. 2461 the following, which is subject to forfeiture based on the aforementioned statutes:

- a. One (1) elephant (Elephantidae) ivory snuff bottle identified under Seizure Tag #082722
- b. One (1) elephant (Elephantidae) ivory snuff bottle identified under Seizure Tag #082723

By virtue of the commission of the offenses charged in this information, any and all interest the defendant has in the above-described property is vested in the United States and hereby forfeited to the United States pursuant 16 U.S.C. § 3374 and 28 U.S.C. § 2461.

JOSEPH D. BROWN
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Date

2/12/20

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v.

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NO. 4:20-CR-_____

Judge _____

NOTICE OF PENALTY

Count One

Violation:

16 U.S.C. § 3372(d)(2) (Negligent Transportation of
Wildlife in Foreign Commerce)

Penalty:

A fine of not more than \$100,000.00; imprisonment
for not more than one (1) year; and a term of
supervised release of not more than one (1) year.
16 U.S.C. § 3373(d)(2)

Special Assessment:

\$25.00

Count Two

Violation:

16 U.S.C. § 1538(c)(1) (Violation of Endangered
Species Act)

Penalty:

A fine of not more than \$100,000.00; imprisonment
for not more than one (1) year; a term of supervised
release of not more than one (1) year.
16 U.S.C. § 1538(c)(1), 16 U.S.C. § 1540(b)(1) and 18
U.S.C. § 3571(b)(5)

Special Assessment:

\$25.00